

## **CITY OF HAYWARD**

and

**SEIU LOCAL 1021 (MAINTENANCE, CLERICAL AND CONFIDENTIAL)**

### **SIDE LETTER OF AGREEMENT**

#### **RE: Mandatory Furlough for Affected Bargaining Units to Address Projected City Revenue Shortfall for FY 2011-12**

Representatives of the City of Hayward and SEIU Local 1021 (Maintenance, Clerical and Confidential) have met and conferred in good faith on the projected revenue shortfall facing the City of Hayward for FY 2011-12. The parties have reached agreement to institute a furlough program in order to contribute 5% towards the City's revenue shortfall. This Side Letter shall therefore expire at the close of business on July 1, 2012 at the end of the prescribed furlough period. This Side Letter is executed to set out the agreements reached between the parties to address issues that may arise during the furlough leave program. The terms and conditions of the furlough program and cost savings measures are outlined below. If there is any conflict in language between the Side Letter of Agreement and the Memorandum of Understanding, the provisions in this Side Letter will supersede.

#### **Definitions**

1. *Furlough Obligation* - The total number of furlough hours an employee is required to take between 7/4/2011 to 7/1/2012.
2. *Furlough Hours Taken* - The hours that the employee takes off from work to meet his/her Furlough Obligation.
3. *Furlough Payback* - The reimbursement of paid Furlough Hours Taken that will be spread over 26 pay periods starting with the pay period beginning July 4, 2011.

#### **Covered Employees**

All full-time and benefited part-time employees in the bargaining units will be required to participate in the Furlough Program:

## **Furlough Obligation**

1. All full-time employees will have a furlough obligation of 104 hours for FY 2011-12.
2. All benefited part-time employees, who are budgeted to work 20 hours or more per week, will be required to take a pro-rated number of furlough hours. For example, if an employee is budgeted to work 20 hours then his/her furlough obligation would be 50% or 52 furlough hours.
3. Employees working 19 hours per week or less and temporary employees will be exempt from participating in the Furlough Program.
4. Any new employee, or employee returning from an unpaid status, will have a furlough obligation based on the number of payrolls remaining in the furlough payback period.

## **Furlough Days**

1. At the sole discretion of the City Manager or his/her designee, the City Manager will determine how the furlough hours will be taken, which may be a combination of floating furlough days or set dates for closure of non-essential City facilities. The City Manager or his/her designee will decide how furlough hours are to be taken by June 30, 2011
  - a. If floating furlough days are designated, an employee will be allowed to meet his/her furlough obligation through days off of his/her choosing, provided the requests for days off are approved in advance by his/her supervisor. While supervisors have discretion to approve or deny floating furlough requests, they are encouraged to approve the use of such requests unless operational necessity precludes approval. A request for furlough hours shall be given the same approval consideration as a request for vacation hours. In the event of a dispute regarding the approval of furlough hours, the supervisor shall forward the reason for denial to the City Manager for review and whose decision shall be final.
  - b. The following 6.5 (8-hour) furlough days will be designated as furlough days for closure for non-essential City facilities/functions:

2011: November 21	8 hours
November 22	8 hours
November 23	8 hours
December 27	8 hours
December 28	8 hours
December 29	8 hours
December 30	4 hours

The City manager or his/her designee has sole discretion to implement the dates above, add new dates or delete dates above.

- i. At his/her sole discretion, the City Manager or his/her designee will determine which employees will be required to provide essential services during furlough days when the City is closed.
  - ii. Employees who are not be required to provide essential services during furlough days will be required to take their furlough days on the designated furlough days.
  - iii. Employees who are required to work on a furlough day will be scheduled to make up their furlough hours during the Furlough Obligation period (July 4, 2011 to July 1, 2012).
2. An employee must submit his/her request for the use of floating furlough days no later than May 1, 2012. Absent such a timely request, the employee's supervisor can unilaterally schedule the furlough hours to be taken by the employee. Notwithstanding his/her furlough payback, the employee loses any furlough hours not taken under the Furlough Leave Program by July 1, 2012.
3. The parties acknowledge that the furlough is a concession voluntarily made by the employees of the affected bargaining units.
4. Furlough hours can be taken in increments and may be combined with an employee's time off for holiday, vacation, administrative leave, comp time or AWS purposes, if applicable.
5. All furlough hours must be taken prior to using any vacation or compensatory time off, if applicable.
6. An employee's use of furlough time shall not adversely impact the employee. (For example, an employee's use of approved furlough time off shall not adversely impact the employee's performance evaluation.)

### **Furlough Payback**

1. In order to mitigate the financial impact of the Furlough Program to employees, the payback of the furlough obligation will be spread over 26 payrolls starting with pay period beginning July 4, 2011.
2. For FY 2011-12, 4 hours of paid time will be deducted from each full-time employee's paycheck with the payroll period beginning July 4, 2011 which is paid July 22, 2011, and ending with the payroll period ending July 1, 2012 which is paid July 6, 2012. Assuming an employee works 80 hours, they will be paid for 76 hours for each of the 26 payrolls.  
Overtime shall continue to be calculated in accordance with applicable MOU language and FLSA provisions.
3. Any employee who leaves City employment prior to completely reimbursing the City for the furlough hours taken will have any remaining prorated balance of owed furlough payback hours deducted from his/her final paycheck.
4. For employees returning from unpaid leave or separating employment, Payroll will coordinate any repayments with the employee and can increase an employee's pay period deduction to ensure all furlough payback is made within the furlough payback period.

### **Furlough Impacts**

1. Implementation of the Furlough Program will not cause any decrease in vacation or sick leave accruals.
2. The caps on vacation will not be enforced through calendar year 2011. As of the end of the pay period including January 1, 2012, the caps on vacation will be reinstated pursuant to Section 12.02 of the MOU, except employees will be allowed to accrue twice the annual rate plus forty (40) hours and the City Manager or his/her designee will allow employees who exceed this cap to use the excess vacation leave by the end of the pay period including June 30, 2013. Effective the end of the pay period including June 30, 2013, the vacation accrual will be reinstated pursuant to MOU Section 12.02 (twice the annual rate).
3. Enforcement of compensatory time off (CTO) caps will be extended from January 1, 2011 to December 31, 2011, up to the FLSA limits. Employee requests to carry over CTO balances in excess of the one-hundred twenty (120) and eighty (80) hour maximums provided for in their MOUs will be approved. Employees must submit such requests to their department heads no later than July 5, 2010, and the department heads shall forward the approved requests to the City payroll office no later than July 15, 2010. In the event an employee extends his/her CTO cap enforcement to December 31, 2011, any CTO hours in excess of 80 hours will be cashed out and paid to the employee in the pay period ending January 1, 2012.
4. For employees retiring prior to July 1, 2012, if FY 2011-12 months are included in the highest earnings months, retirement calculation of the single highest year salary would not be affected. PERS calculations are based on the reported salary rate not actual wages earned. Also, unless employees are on leave of absence without pay status for more than 2 months during the 12 months prior to retirement, PERS service credit would not be affected providing the employee works until the end of the fiscal year.

### **Layoff Procedure**

If layoffs occur in the affected bargaining unit due to a lack of work or a lack of funds, the City agrees to meet and confer with the affected bargaining unit over the impact of such layoffs.


In the event of layoffs, the City shall follow the layoff procedure as set forth in the MOU.

The City shall provide financial and employment counseling to employees laid off.

### Dispute Resolution


Any dispute arising under the terms and conditions of this side letter of agreement shall only be processed and resolved using the MOU's grievance procedure and may only be advanced through and including Step 4, Adjustment Board. The dispute shall not be subject to the procedures contained in the Personnel Rules nor to the jurisdiction of the Personnel and Affirmative Action Commission.

**For SEIU 1021**

  
Maintenance Unit – Gil Hesla

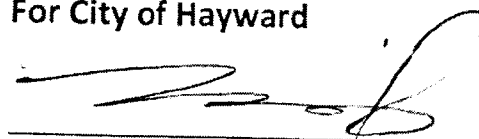
  
Clerical Unit – Duce O'Bayley

  
Confidential Unit-Araceli Alejandre

  
SEIU Representative-Angela Osayande

5/5/11  
Date

**For City of Hayward**

  
Frances David, City Manager

5/6/11  
Date